

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
FOR THE WESTERN DIVISION**

STEPHEN HEWITT,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 4:17-cv-874
)	
SYNCHRONY BANK,)	
)	
Defendant.)	

COMPLAINT

NOW COMES Plaintiff, STEPHEN HEWITT ("Plaintiff"), by and through his attorneys, and for his Complaint against Defendant, SYNCHRONY BANK ("Defendant"), Plaintiff hereby allege as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

Parties

2. Plaintiff is a natural person at all times relevant residing in Harrisonville, Cass County Missouri.

3. Defendant is a business entity with a business office located in Draper, Utah.

4. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

5. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts and transactions giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant transactions business in this district.

Factual Allegations

7. Around June 2017, Plaintiff began receiving phone calls from Defendant on his cellular telephone.

8. Telephone number [REDACTED] is assigned to Plaintiff's cellular telephone.

9. These calls are not for emergency purposes.

10. These calls are made in connection with an attempt to collect payments from Plaintiff.

11. Defendant called Plaintiff's cell phone on consecutive days, at least twice per day, including mornings, nights and weekends.

12. Upon information and good faith belief, based on the frequency, number, nature and character of these calls, Defendant placed these calls using an automatic telephone dialing system.

13. On or around June 21, 2017, Plaintiff spoke with Defendant and instructed Defendant to stop calling his cell phone.

14. Plaintiff revoked consent for Defendant to use an automatic telephone dialing system to call his cell phone.

15. Defendant continued to call Plaintiff's cell phone after June 21, 2017.

16. Defendant continued to place calls to Plaintiff's cell on consecutive days, at least twice per day, including mornings, nights and weekends.

17. Plaintiff estimates Defendant called his cell phone at least forty-five (45) times.

18. Upon information and good faith belief, Defendant used an automatic telephone dialing system to place each and every call to Plaintiff's cell phone.

19. Defendant did not have Plaintiff's express consent to use an automatic telephone dialing system to place these calls.

20. Defendant knew that it did not have Plaintiff's express consent to use an automatic telephone dialing system to place these calls.

21. Defendant placed these calls voluntarily.

22. Defendant placed these calls under its own free will.

23. Defendant willfully used an automatic telephone dialing system to place these calls.

24. Plaintiff is annoyed and feels harassed by Defendant's calls.

CLAIM FOR RELIEF
Telephone Consumer Protection Act

25. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

26. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

(1) Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

(2) Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

(3) All court costs, witness fees and other fees incurred; and

(4) Awarding such other and further relief as may be just, proper and equitable.

Respectfully submitted,

Dated: October 16, 2017

/s/Nicole Forsythe
Nicole Forsythe, J.D., LL.M.
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

for the

Western District of Missouri

STEPHEN HEWITT

Plaintiff(s)

V.

SYNCHRONY BANK

Defendant(s)

Civil Action No. 4:17-cv-874

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Synchrony Bank
170 W Election Road
Suite 125
Draper, UT 84020

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Adam T. Hill

Adam T. Hill
KROHN & MOSS, LTD.
10 N. Dearborn St., 3rd Fl.
Chicago, Illinois 60602

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: Oct 17, 2017

CLERK OF COURT

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

United States District Court

State of Missouri

Stephen Hewitt

Plaintiff

vs.

Synchrony Bank

Defendant

Attorney:

Krohn & Moss, Ltd - Manhattan Beach
1112 Ocean Drive, Suite 301
Manhattan Beach, CA. 90266

Case Number: 4:17-cv-874

Legal documents received by ICU Investigations, LLC on October 20th, 2017 at 11:46 AM to be served upon **Synchrony Bank at 170 West Election Road, Suite 125, Draper, UT. 84020**

I, James Schmidt, swear and affirm that on **October 23rd, 2017 at 12:40 PM**, I did the following:

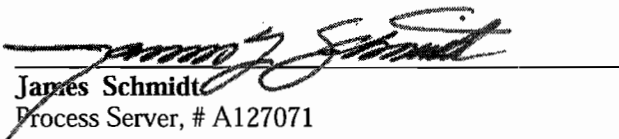
Served the **corporation** listed as the intended recipient of the legal documents by delivering a conformed copy of the **Summons in a Civil Action; Complaint to Terry Bowers** as **authorized person** of the within named corporation. The service date, time, my initials and/or name, and identification number, if required by state statute, were listed on the document served.

Description of Person Accepting Service:

Sex: Male Age: 62 Height: 5'10" Weight: 170 Skin Color: White Hair Color: Gray Glasses: N

Supplemental Data Appropriate to this Service:

I declare that I am eighteen years of age or older and have no interest in the above legal matter. I attest that I am certified, appointed by sheriff or motion and order and that I am legally authorized to serve court documents within the above named circuit / county. I have not included any non-public information from this document. I declare under penalty of Utah Code Section 78B-5-705 that everything stated in this document is true and correct.


James Schmidt
Process Server, # A127071

ICU Investigations, LLC
250 N Red Cliffs Drive, #4B-275
St. George, UT 84790

(435) 986-1200

Internal Job ID: 2017002437

Reference Number: 34857